IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5855 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T C

Versus

GANPATRAI MAHASHANKAR VYAS

Appearance:

1. Special Civil Application No. 5855 of 2002

MR HARDIK C RAWAL for Petitioner No. 1

MR KISHOR M PAUL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 20/07/2004

ORAL JUDGEMENT

1.o. The petitioner Gujarat State Road Transport Corporation has challenged the judgment and award of the Labour Court, Rajkot in Reference [L.C.R.] No. 520 of 1994 dated 11th January, 2002, whereby the Labour Court

while exercising power under Section 11-A has substituted the penalty of dismissal and has directed the petitioner - Corporation to reinstate the respondent-workman with continuity of service and 50% of the backwages.

2.0. The short facts of the case as they emerge from the record of this petition are that the respondent workman at the relevant time was working as a conductor with the petitioner-Corporation at Dhoraji. He was dismissed from the service on 9th May, 1994 on the ground that the respondent-workman had committed misconduct while discharging his duties. The allegation against him was that on the relevant date when the bus was checked at Gadu stand, it was found that he was involved in misconduct and remarks were made in respect of three passengers who were travelling from Veraval to Mangrol in the way bill no.876773. In view of the aforesaid misconduct, he was served with the chargesheet being chargesheet no. 244/92. Inquiry was thereafter held, and after the inquiry was over, misconduct of the respondent-workman was proved and ultimately, the disciplinary authority vide order dated 9th May, 1994 terminated the service of the respondent-workman.

2.1. Being aggrieved by the order of termination, the respondent-workman raised industrial dispute, which was ultimately referred to the Labour Court for adjudication. Before the Labour Court, both the parties adduced evidence. After appreciating the material produced before it, the Labour Court has come to the conclusion, that the inquiry was not held in accordance with the principles of natural justice and it quashed and set aside the order of dismissal and directed the petitioner - Corporation to reinstate the respondent-workman with continuity of service with 50% backwages. It is this award which is now under challenge in this petition.

3.0. Mr. Raval learned advocate for the petitioner submitted that in view of the Supreme Court's decision the Labour Court has no jurisdiction to interfere in the matter. As against that Mr. Paul for the respondent submitted that the respondent-workman is already reinstated in service vide order dated 29th June, 2003, and thereafter there are no misconduct alleged against him.

3.1. I have gone through the record of this petition, and also considered the arguments advanced by both the learned advocates. It is true that Mr. Raval has strongly relied on the decision of the Apex Court. However, since the workman is reinstated in service, and

looking to the fact that so far he has not committed any default, after he was reinstated on the said post, with the consent of both the sides, I am of the opinion that ends of justice will be served if the order of Labour Court is modified to the extent that the respondent - workman will be reinstated with continuity in service without backwages, but with penalty of stoppage of two increments with future effect.

4.1. Therefore, the order of Labour Court is modified and the respondent-workman is reinstated without backwages and continuity of service and he is imposed with penalty of two increments with future effect. Rule is made to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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